

## **Attendees**

**(Underline indicates attended meeting)**

**John West, Chair Richard Adams, Secretary Richard Cambra Jack Kane, Zoning Officer**

**Jack Maloney Claire Pimentel Barbara Schuster**

**Robert Silva Ed Silveira, Council Liaison Thomas Silveira, ZBR Chair Ron Wolanski, Town Planner**

**Sam Hogan, Asst. Town Planner**

**The meeting was called to order at 6:05 PM. Attendees were as indicated above.**

## **Previous Meeting Minutes**

**Review and approval of 6, 13 and 20 March meeting minutes was deferred.**

## **Organizational Items and Authority**

**Claire Pimentel reported on her discussion with the Town Council regarding the ordinance review schedule. A deadline of June 1st was set.**

**Article 3 sections which remain to be reviewed are:**

- Development Impact Review**
- Incentives**
- Certificate of Zoning Compliance for New, Altered or Nonconforming Uses**
- Expiration of Building Permits**
- Completion of Work Authorized Prior to Effective Date of this Ordinance**

- **Construction and Use to be as Provided in Applications, Plans, Permits and Certificates of Zoning Compliance**
- **Complaints Regarding Violations**
- **Penalty for Violations; Recourse of Town and Duty of Town Solicitor upon Violation**
- **Appeals**
- **Special-Use Permits and Variances**
- **Appeal of Planning Board Decision**
- **Hearing Required; Action of the Board**

**Changes recommended by the committee are summarized below. The comments below are cumulative, and include all Articles reviewed by the committee, in order of review.**

#### **Review Approach and Schedule**

**All committee review work must be complete by March 27 and recommended changes provided to the Town Council on 3 April.**

#### **Reference Materials**

**The Zoning Ordinance of 12-09-04 is the basis for review. Title 45-24, Zoning, is available at <http://www.rilin.state.ri.us/Statutes/TITLE45/45-24/INDEX.HTM>.**

#### **Meeting Schedule**

**Scheduled meetings are as follows: 20 March 27 March.**

#### **Recommended Changes**

##### **a) Zoning Ordinance Changes**

**Note: Recommended changes are shown in the current revised version of the ordinance. The file name is: Zoning Ordinance (12-09-04) Chap 1-26 Rev 3\_13\_06\_CDSCChgs.doc and ARTICLE 3 @**

**3\_13\_06 Changes Accepted\_Revised Table\_Rev4a.doc** and are the current working files distributed to committee members. Changes proposed to implement commercial design standards have been added to the baseline and all approved amendments.

**Global Changes.** It was noted that the paragraph subordination of the Zoning Ordinance is inconsistent. That is, the designation of subordinate paragraphs varies among Sections, and levels of indenture are inconsistent. Recommended changes to paragraphing are shown in the current revision. Article and Sections will be renumbered as necessary when all review is complete.

**Site Plan** was changed to **Development Plan** throughout the Zoning Ordinance. Middletown “Rules and Regulations Regarding Subdivision of Land” was changed to Middletown “Rules and Regulations Regarding Subdivision and Development of Land” throughout.

**Article 1 - Purpose.** Minor changes were made clarifying text and adding references to RI General Laws. In general, when RIGL text is quoted or a section is required to conform to RIGL, a footnote has been added to indicate the applicable reference. Section 101, item (16) was added to conform with RIGL related to affordable housing.

**Article 2 - Zoning Board of Review.** Notes were added to indicate the text needs to be modified to reflect a 3rd Zoning Board alternate member if approved by the Town Council. Global revisions were made to make the language gender neutral. Zoning Board powers references were corrected.

**Article 3 - Administration, Enforcement, and Procedures.** Minor

readability clarifications were made. Section 304. Item M was changed to correct references. Clarification language was inserted in Section 304A. Sections should be renumbered to eliminate “A”. All other corrections were grammatical or clarifications.

**Article 4 - Definitions.** Minor clarifications and misspellings corrected. Article 4 definitions were reviewed. Comments from Ron Wolanski and committee members were incorporated. To simplify the definitions, paragraph numbers were eliminated and definitions arranged in alphabetical order. An APA book of definitions was obtained and will be compared with Ordinance definitions. The committee will be advised of any recommended changes.

**Article 5 - Zoning Districts and Zoning Map.** Item K was modified to include a note explaining LI (Adjacent to Residential) modification to LI. Section 503 needs to be redrafted to provide guidance on how to divide lots with multiple zonings or simply authorize the Zoning Official to do so, which is current practice.

**Article 6 - Application of District Regulations.** Line by line review of the Section 602 and 603 tables continued through the end of the section. Recommended changes are shown in the current working revision.

**Article 7 - Supplementary Regulations.** Modifications to Article 7 required to incorporate the Stormwater ordinance will be considered after the committee has an opportunity to review this amendment. Copies of the amendment were emailed to the committee.

**Section 702.** Number of Dwelling Units or Principal Building per Lot was modified to allow more than one building per lot. **Section 704.**

**Height and Yard Modifications** was modified to require a variance rather than special use permit. **Section 714 Swimming Pools** was changed to require 4 ft. vs 5 ft. fence. **Section 716. Yard Regulations:** missing illustration will be inserted. **Section 722. Waste Pens** title was changed to **Receptacle Enclosures** and a reference to Town ordinances on the subject will be incorporated. **Section 723. Farm-Promotion Accessory Uses:** Restriction of additional impervious surfaces was deleted. **Section 725. Light Industrial District** was inserted.

**Article 8 - Nonconforming Uses.** **Section 803. Extension or Alteration** was clarified to include requirement to obtain variance relief from the Zoning Board. **Section 805. Special Use** clarified. **Section 806. Effect of Enactment of Amendment of Ordinance on Building Permits Valid as of Time of Such Enactment or Amendment:** expiration was changed from 90 days to six months.

**Article 9 - Appeals, Special-Use Permits, and Variances.** **Section 904. Basis for approval of a variance** was relaxed by including "...primarily [due] to a physical or economic hardship...". No other significant changes were proposed since the section is largely required by RIGL.

**Article 10 - Flood Hazard Areas.** No significant changes were proposed.

**Article 11 - Watershed Protection District.** Changed to incorporate Stormwater Ordinance changes. No other significant changes were proposed.

**Article 12 - Signs.** Deferred pending report by the Signage Subcommittee.

**Article 13 - Off-Street Parking and Loading.** Discussion continued on parking requirements. **Section 1302.** The requirement for all parking lots to be located behind and to the side of new buildings was modified to allow parking lots in any location. Parking arrangements will be part of overall Development Plan Review. **Section 1304.** Minimum parking space requirements were reviewed. It was agreed that CDS recommendations to set maximum and well as current minimum parking space requirements was a reasonable approach. Shopping Center requirements were separated into large and small scale shopping centers. Parking space number requirements were not significantly changed.

**Article 14 - Motels and Hotels.** **Section 1402.** “Site Plan” was changed to “Development Plan Review” requirements to reflect the CDS review process. **Section 1404** Minimum land area per hotel room or unit was modified to reflect amendment adopted on June 6, 2005. The table was deleted. **Section 1408** Hotel kitchen facilities was modified to allow kitchen facilities in all extended stay hotel rooms.

**Article 15 - Multifamily Dwellings.** **Section 1504** Office Business (OB) was deleted from table to be consistent with Article 6. **Section 1509** Building façade blank walls shortened from 160 to 80 feet.

**Article 15A - Accessory Family Dwelling Unit.** Allowed residents in accessory family units were expanded from parents and grandparents only, to include children and grandchildren. **Section 15A01** Accessory family unit floor space percentage increased from 25% to 35% of the dwelling.

**Article 16 - Shopping Centers.** **Section 1601.** Changed shopping

center development review procedures to be consistent with Article 3, Development Plan Review requirements. Article 1605. Building setback requirements separated into large and small scale shopping center. Changed text is as follows:

A. “Small Scale Shopping Centers. Each Zoning ILots shall have a setback for all principal buildings from all street rights of way of at least fifty (50) ten (10) feet. A strip of at least ten (10) twenty (20) feet deep along the street line shall be maintained as a landscaped buffer strip except for necessary driveways. The remaining area may be used for parking.

B. Large Scale Shopping Centers. Lots shall have a setback for all principal buildings from all street rights of way of at least fifty (50) feet. A strip of at least twenty five (25) feet deep along the street line shall be maintained as a landscaped buffer strip except for necessary driveways.”

Section 1606 side and rear yard requirements changed as follows:

C. “Small Scale Shopping Centers. For a small-scale shopping center, each zoning ILots shall have side yards of at least twenty (20) feet and rear yards of at least fifty (50) feet, and a strip ten (10) feet in width or depth along side and rear lot lines shall be maintained as a landscaped buffer strip.

D. Large Scale Shopping Centers. For a large-scale shopping center, each zoning ILots shall have side and rear yards of at least fifty (50) feet in width and a strip twenty (20) feet in width or depth along side and rear lot lines shall be maintained as a landscaped buffer strip.

The remaining area may be used for parking.”

**Section 1609. Off street parking area requirements changed to be consistent with Article 3.**

**Section 1612. “Waste Pens” changed to “Waste Receptacle Enclosures”.**

**Section 1614. The committee voted to retain the text recommended for deletion by the Commercial Design Standards Committee. The deletion would eliminate the requirement for physical separation barriers between standalone shopping center building and the shopping center. The CDS committee recommended the deletion to provide increased development flexibility and integration, and to encourage pedestrian traffic between shopping center elements. The majority of ZORC members felt current shopping center design, separating standalone buildings was adequate.**

**The retained text is as follows:**

**“The area for the separate building, including parking, lanes for an drive-up windows, and the building itself, shall be clearly set off from the remainder of the shopping center by a boundary consisting of asphalt or concrete berms, tightly-spaced plantings, or other permanent and unobtrusive means of separation, with not more than two openings for vehicular access to the separate building. Signs shall be placed at each opening in the boundary to clearly show drivers where to enter and exit the separate building area.”**

**Article 17- Cluster Development. Review of Cluster Development was deferred. The ZORC felt that the subject of cluster development, conservation zoning and conservation development should be considered by a separate committee formed to develop**



**recommended changes. Minor editorial changes were made to Article 17.**

**Article 18 - Cemeteries. Definitions included in this article were moved to Article 4 – Definitions. No other significant changes were made.**

**Article 19 - Residential Care And Assisted Living Facilities And Senior Independent Living Facilities. No significant changes were made.**

**Article 20 - Mobile Home Parks. No significant changes were made.**

**Article 21 - Transient Trailer Parks. No significant changes were made.**

**Article 22 - Wireless Telecommunications Facilities. Definitions included in this article were moved to Article 4 – Definitions. No other significant changes were made.**

**Article 22 - Public Zoning Districts. No significant changes were made.**

**Article 23 - Commercial and Industrial Performance Standards –  
Section 2301. Light Industrial district added as per amendment.  
Section 2301. Noise standards reference changed as per amendment.  
Section 2316 Toxic matter standards changed as per amendment.  
Section 2317. Heat and glare standards changed as per amendment.  
Section 2319 & 2320. Changed as per amendment.**

**Article 24 - Town Center Overlay District – Entire article deleted as recommended by the CDS committee.**

**Article 25 – Amendment – No changes.**

**Article 26 - Legal Status – No changes.**

**Article 3 - Administration, Enforcement, and Procedures – Discussion**

**focused on Section 304B (Uses Subject to Development Plan Review) and 304C (Exemptions from Development Plan Review). After extensive discussion of the threshold conditions specified, it was concluded that the committee did not fully understand when these conditions apply to renovation. Agreement was not unanimous and there was considerable discussion of the unenforceability of the thresholds. The committee could not reach agreement on any of the specific thresholds contained in the revised ordinance. However, the committee did generally agree that commercial design standards should apply to renovation.**

**Significant discussion was devoted to describing the discussions held by the Commercial Design Standards Committee and the rationale the CDS Committee used to set the threshold for DPR application.**

**It was decided that the ordinance should be clarified by creating a table specifying both thresholds for DPR applicability and exceptions to these thresholds, essentially combining Sections 304B and 304C. Dick Adams and Sam Hogan agreed to create the table.**

**Article 3 - Administration, Enforcement, and Procedures (Continued). Discussion of the table created by combining Section 304B (Uses Subject to Development Plan Review) and 304C (Exemptions from Development Plan Review) was completed. The table was recommended for incorporated in Article 3.**

**It was agreed that the DPR should apply to all new development. The committee resumed discussion of when a DPR should be required for renovations.**

**Committee discussion focused on ensuring that the DPR renovation requirement did not create a property improvement disincentive. No major changes were made to the renovation threshold conditions recommended by the Planning Board, however, the committee did not reach consensus on whether or not the DPR should be required on a change of use as specified in Section 602.**

**Article 3 - Administration, Enforcement, and Procedures (Continued). The committee resumed discussion of Article 3, completing discussion of Uses Subject to and Exempt from Development Plan Review. Sections dealing with Uses Requiring a Variance or Special Use Permit and Required Guidelines, Findings and Improvements were discussed, concentrating on the proper role of the Planning Board in the decision making process and consistency with state law.**

**The committee referred these sections to the Town Solicitor for review.**

#### **b) Other Related Changes**

**Relevant supporting Subdivision/Land Development Regulation changes are shown in filename Subdiv. Regs. 1995-Revisions to Dec. 2004 Rev\_Baseline\_DSChgs\_1.doc.**

**The meeting was adjourned at 8:55 PM.**

#### **Action Items**

##### **No. Item Responsibility Status Due**

**9A Section 503 needs to be redrafted to provide guidance on how to divide lots with multiple zonings or simply authorize the Zoning Official to do so, which is current practice. Zoning Official Pending TBD**

**11 Section 1407. Text needed to reflect sewage holding tank requirements and role of Town Engineer in review and approval. Zoning Official Pending TBD**

**12 Section 1508. Parking diagram needed Planning Official Pending TBD**

**13 Section 15A02 Procedure –Text needed to implement specific procedures Planning & Zoning Officials Pending TBD**

**Respectfully Submitted,**

**/s/ R. P. Adams**

**Dick Adams, ZORC Secretary**